IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

LA.App..No. 259 of 2004(D)

LAR.19/2000 of SUB COURT, CHERTHALA
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APPELLANT: RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.BASANT BALAJI.

RESPONDENTS: CLAIMANTS:

JOSE KUNJU, S/O. SEBASTIAN,
KUDIYAMCHARIYIL, CHERTHALA VADAKKU VILLAGE,
VADAKKUM MURI.

BY ADV. SRI.BIMAL K.NATH

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.259 of 2004

Dated this the 6th day of September, 2007

JUDGMENT

Kurian Joseph,J.

This appeal is filed against the judgment and decree in L.A.R.No.19/2000 on the file of the Sub Court, Cherthala. The acquisition is for the purpose of Fish Landing Centre at Arthinkal. The extent of property involved is only 4.96 Ares. Section 4(1) notification is dated 9-3-1996. The Land Acquisition Officer fixed the land value at Rs.6,551/- per Are. The claimant had claimed Rs.25,000/- per cent. The Land Acquisition Officer relied on document No.740 executed on 3-2-1996. However, the same was not produced before the reference court for reasons best known to the acquisitioning authority. There was no evidence for the acquisitioning authority. On the part of the claimant, however, Exts.A1 and A2 documents were produced and the claimant was examined as AW1. Ext.A1 is a patta dated 20-6-1993 covering an extent of 12.250 cents of property. Regarding the land value the claimant relied on Ext.A2 document executed on 17-11-1994. An extent of 12.500 cents of land has been sold by one Dhananjayan to Arthinkal Church for Rs.91,871/- which would show that the market value was around Rs.7,500/- per cent. Since the

claimant has not produced any other document showing any other transaction between the people in the locality Ext.A2 as such has not been accepted by the reference court. However, taking note of the evidence available on record that the property is situated near to various public institutions like market, police station, post office, school etc., the reference court fixed the land value at Rs.6,000/- per cent. In the absence of any evidence to the contrary and particularly in view of the conduct on the part of the acquisitioning authority in not having produced even the basis document relied on for fixation of the market value, we are of the view that the value granted by the reference court is just, proper and reasonable. Ext.A2 document indicated that the land value was around Rs.7,500/- per cent. However, what is granted is only Rs.6,000/- per cent. Thus there is no merit in the appeal. It is accordingly dismissed.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

ahg.